

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

SHERITA LEE,

Plaintiff,

v.

DAMONICA BANKS,

Defendants.

Case No. 2:23-cv-01164-RFB-BNW

ORDER

Plaintiff Sherita Lee brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that she claims she suffered while incarcerated at Clark County Detention Center. (ECF No. 1-1). On December 14, 2023, this Court ordered Plaintiff to update her address by January 19, 2024. (ECF No. 5). That deadline expired without an updated address from Plaintiff, and her mail from the Court is being returned as undeliverable. (See ECF No. 6).

**I. DISCUSSION**

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. Thompson v. Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives. See In re Phenylpropanolamine Prod. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting Malone v. U.S. Postal Serv., 833 F.2d 128, 130 (9th Cir. 1987)).

1           The first two factors, the public’s interest in expeditiously resolving this litigation and the  
2 Court’s interest in managing its docket, weigh in favor of dismissal of Plaintiff’s claims. The third  
3 factor, risk of prejudice to defendant, also weighs in favor of dismissal because a presumption of  
4 injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court  
5 or prosecuting an action. See Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth  
6 factor—the public policy favoring disposition of cases on their merits—is greatly outweighed by  
7 the factors favoring dismissal.

8           The fifth factor requires the Court to consider whether less drastic alternatives can be used  
9 to correct the party’s failure that brought about the Court’s need to consider dismissal. See Yourish  
10 v. Cal. Amplifier, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic  
11 alternatives before the party has disobeyed a court order does not satisfy this factor); accord  
12 Pagtalunan v. Galaza, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the persuasive  
13 force of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic alternatives  
14 prior to disobedience of the court’s order as satisfying this element[,]” i.e., like the “initial granting  
15 of leave to amend coupled with the warning of dismissal for failure to comply[,]” have been  
16 “eroded” by Yourish). Courts “need not exhaust every sanction short of dismissal before finally  
17 dismissing a case, but must explore possible and meaningful alternatives.” Henderson v. Duncan,  
18 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed without the  
19 ability for the Court and the defendants to send Plaintiff case-related documents, filings, and  
20 orders, the only alternative is to enter a second order setting another deadline. But without an  
21 updated address, the likelihood that the second order would even reach Plaintiff is low, so issuing  
22 a second order will only delay the inevitable and further squander the Court’s finite resources.  
23 Setting another deadline is not a meaningful alternative given these circumstances. So the fifth  
24 factor favors dismissal.

## 25       **II. CONCLUSION**

26           Having thoroughly considered these dismissal factors, the Court finds that they weigh in  
27 favor of dismissal. It is therefore ordered that this action is dismissed without prejudice based on  
28 Plaintiff’s failure to file an updated address in compliance with this Court’s December 14, 2023,

1 order. The Clerk of Court is directed to enter judgment accordingly and close this case. No other  
2 documents may be filed in this now-closed case. If Plaintiff wishes to pursue her claims, she must  
3 file a complaint in a new case and provide the Court with her current address.

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5 DATED: January 29, 2024

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8 RICHARD F. BOULWARE, II  
9 UNITED STATES DISTRICT JUDGE  
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